

FILED  
CHARLOTTE, NC

DEC - 4 2020

US DISTRICT COURT  
WESTERN DISTRICT OF NC

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA

v.

Ashley Terrell Brooks  
Defendant

Criminal Case No. 3:06CR00115

**AGREED ORDER AND JUDGMENT  
TO REVOKE SUPERVISED RELEASE**

Upon petition of the U.S. Probation Office, joined herein by the United States and the defendant, to revoke the supervised release of defendant Ashley Terrell Brooks and for good cause shown therein, and also based on agreement of the parties as set forth herein:

AGREEMENT OF UNITED STATES AND DEFENDANT

The defendant agrees and stipulates that he/she has violated the terms and conditions of supervised release in the following respects:

**1. DRUG/ALCOHOL USE (Date violation concluded: 9/2/2020).**

The defendant has violated the condition of supervision that states, "The defendant shall refrain from excessive use of alcohol and shall not unlawfully purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as duly prescribed by a licensed physician," in that, the defendant tested positive for cocaine on the following dates: 5/7/2019, 5/30/2019, 7/1/2019, 11/22/2019, 11/27/2019, 8/26/2020, and 9/4/2020. All drug screens have been confirmed through national laboratory testing. (Grade C Violation)

**2. FAILURE TO COMPLY WITH DRUG TESTING/TREATMENT REQUIREMENTS (Date violation concluded: 8/14/2020).**

The defendant has violated the condition of supervision that states, "The defendant shall participate in a program of testing and treatment or both for substance abuse if directed to do so by the probation officer, until such time as the defendant is released from the program by the probation office, provided, however, that the defendant shall submit to a drug test within 15 days of release on probation or supervised release and at least two

periodic drug tests thereafter for use of any controlled substance subject to the provisions of 18:3563(a)(5) or 18:3583(d), respectively. The defendant shall refrain from obstructing or attempting to obstruct or tamper, in any fashion, with the efficiency and accuracy of any prohibited substance testing or monitoring which is (are) required as conditions of supervision, in that, the defendant failed to report for random drug testing through the code a phone system on the following dates: 8/7/2019, 10/29/2019, 11/1/2019, 7/26/2020 and 8/14/2020. (Grade C Violation)

The parties stipulate, pursuant to Chapter 7 Policy Statements, U.S. Sentencing Guidelines, that the defendant's violation is a maximum Grade C and that the defendant has a Criminal History Category of VI.

The parties stipulate, based on U.S.S.G. §7B1.4, that the Guidelines range of imprisonment for a Grade C violation and a Criminal History Category of VI is a term of imprisonment from eight (8) to fourteen (14) months.

The parties agree, pursuant to Rules 11(c)(1)(C) and 32.1, Federal Rules of Criminal Procedure, that the Court should revoke supervised release and order the defendant to be imprisoned for a period of "time served". If the Court rejects this sentencing agreement, the defendant has the right to withdraw from this Agreed Order and have an evidentiary hearing on the petition for revocation of supervised release.

#### DEFENDANT'S ACKNOWLEDGMENT AND WAIVER

The defendant acknowledges that he/she is admitting the violations of supervised release because he/she did, in fact, violate the conditions of supervised release set forth above.

The defendant acknowledges that he/she has had an opportunity 1) to review the written notice of the alleged violations of supervised release and 2) to review the evidence against him/her related to those alleged violations.

The defendant further acknowledges that he/she is aware of the following rights and is knowingly waiving these rights in exchange for the agreed sentence:

- 1) The opportunity to appear personally, present evidence, and question adverse witnesses at a revocation hearing; and
- 2) The opportunity to make a statement personally to the Court in mitigation of sentence and to present mitigating evidence to the Court.

If the Court accepts the agreed sentence, the defendant knowingly waives the right to contest the revocation of supervised release and the defendant's sentence in any appeal or post-conviction action. Claims of (1) ineffective assistance of counsel and (2) prosecutorial misconduct, and those claims only, are exempt from this waiver.

#### AGREED SENTENCE

Upon agreement of the parties as set forth above, it is hereby ORDERED that the previously imposed period of supervised release is REVOKED.

It is further ORDERED that the defendant Ashley Terrell Brooks be and is hereby SENTENCED to a term of imprisonment of TIME SERVED on Count One of the Judgment.<sup>1</sup>

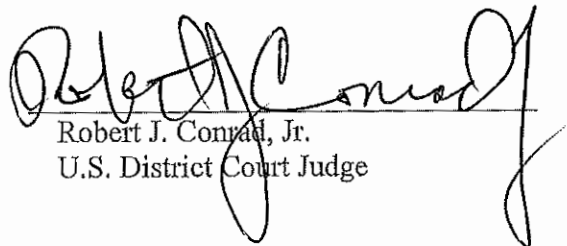
It is further ORDERED that no additional term of supervised release is ORDERED following the defendant's release from imprisonment.

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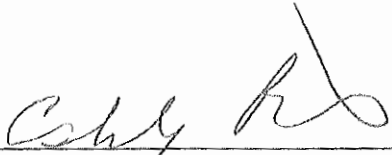
<sup>1</sup> The record reflects that defendant's original custody sentence of 180 months was reduced to 120 months, resulting in defendant having overserved his custody sentence by 1,265 days. Because this overserved time is properly applied to any subsequent revocation sentence imposed in the instant proceeding, the custody sentence agreed to by the parties and set forth in this Agreed Order is for a period of time already served.

It is further ORDERED that any restitution order, fine, and special assessment imposed in the original Judgment in a Criminal Case are hereby reimposed and are to be paid in full immediately.

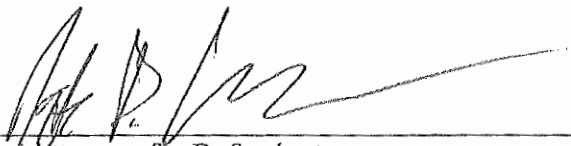
So ORDERED and ADJUDGED, this the 4<sup>th</sup> day of December, 2020

  
Robert J. Conrad, Jr.  
U.S. District Court Judge

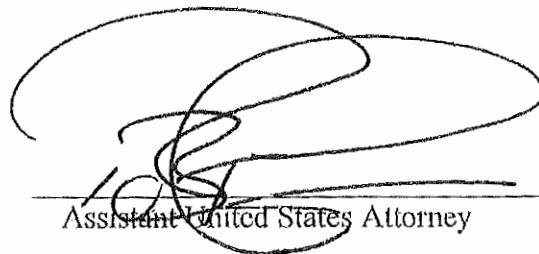
APPROVED



Ashley Terrell Brooks  
Defendant



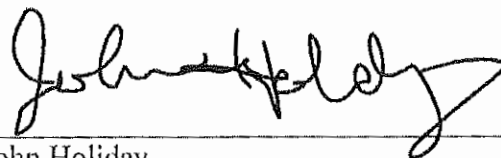
Attorney for Defendant



Assistant United States Attorney



Michael M. Bonelli  
Supervisory U.S. Probation Officer



John Holiday  
Probation Officer